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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 526 of 2004

Date of Decision: 27-10-2004

RAJPUT SANJAYKUMAR CHANDRABHUSANSINH

Versus

UNION OF INDIA

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

For the Petitioner Mr.R.N.Singh, Adv.

For the Respondents Mr.Dhaval G.Nanavati, Adv.

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

#. Pursuant to advertisement dated 2.9.2002, published in newspaper "Liberty Career News", the petitioner submitted application for recruitment of Constable,

General Duties. Later, he received letter dated 9.10.2002 for being present with all testimonials on 11.11.2002 at 8:00 o'clock in the morning for physical

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Whether reporters of Local Papers may be allowed to see the Judgment?

test, written examination and medical test as well. Accordingly, the petitioner appeared in the interview and passed all the tests successfully. He was declared fit for the post, result of the test was displayed on the Notice Board at the Police Parade Ground, Pratapnagar, Vadodara. The petitieonr was called upon to furnish character certificate and join the Department as Constable, General Duty, in the pay scale of Rs.3050-75-3950-80-4590. The petitioner furnished character certificate and joined the Department on 12.2.2003. Surprisingly, the petitioner states, he was asked to undergo another medical check-up. He was issued letter dated 20.2.2003 that the X-Ray of his chest was showing Cervical Rib left, therefore, he was declared unfit by the Chief Medical Officer Incharge of Group Centre, C.R.P.F., Gandhinagar, his services terminated orally.

The petitioner subjected himself to medical examinations by several Government and private medical agencies. He was found fit, without any abnormalities. Thereafter, he approached the Additional Deputy Inspector of Police, C.R.P.F., Gandhinagar on 26.2.2003 with appeal and medical certificates followed by two applications dated 12.3.2003 and 29.3.2003 seeking re-examination. However, by order dated 28.4.2003, the appeal was rejected.

Consequently, the petitioner filed Special Civil Application No.11645 of 2003, later withdrew the same on 18.8.2003 with a view to make representation pointing out that he was never called for medical examination nor was he ever medically examined. Thereafter, the petitioner made representation dated 9.9.2003 to the respondents which was rejected on 17.9.2003. Therefore, the petitioner filed this petition.

#. Question for consideration is whether the petitioner was subjected to medical examination after he approached the respondents seeking re-examination? Respondents depend on letter dated 28.4.2003 while the petitioner states that he was not subjected to medical examination at all. From the report of Medical officers dated 2.4.2003, it appears that the petitioner was not

medically examined on 2.4.2003, simply the report seems to have been furnished on the basis of documents relatable to his earlier examination. In any case, the position is, the petitioner submits that he was not subjected to medical re-examination and respondents state to the contrary. The best way to clear the impasse is to subject the petitioner to fresh medical examination.

Consequently, the petition is allowed, the respondents are directed to constitute fresh Medical Board for fresh medical examination of petitioner without associating the members of the earlier Board to determine whether the petitioner suffers from the defects and in case it is found that he does not so suffer, he may be reinstated in service with consequential benefits. The fresh Medical Board shall be constituted within a period of one month from today and the petitioner shall be asked to appear before the Board through Registered Postal communication. Rule is made absolute. Direct Service is permitted.

(BHAWANI SINGH)
CHIEF JUSTICE

(H.K.RATHOD)
JUDGE

(sunil)